

Sumter City-County Board of Zoning Appeals

August 10, 2011

BOA-11-13, 901 Manning Avenue (County)

The applicant is requesting Special Exception approval for a
Drinking Place, under SIC Code 5813.



Appeals - Variance - Special Exception

Sumter City-County Board of Appeals

August 10, 2011

BOA-11-13, Charlie Jones, 901 Manning Ave. (County)

I. THE REQUEST

Applicant:	Charlie Jones
Status of the Applicant:	Purchasing the Property
Request:	Special Exception approval for Drinking Places (SIC Code 5813)
Location:	901 Manning Avenue
Present Use/Zoning:	Vacant Structure/GC
Tax Map Reference:	251-01-02-002

II. BACKGROUND

The applicant wishes to open a Night Club at this location. This business has been classified under the SIC Code of 5813. This property is zoned General Commercial and uses classified under this SIC designation (Drinking Places SIC Code 5813) are required to be reviewed and approved as Special Exceptions by this Board in accordance with **Article 1, Section 1.h.4.c, Article 3, Section 3.i.4.d in accordance with Article 5, Section B** in the County Zoning Ordinance.

Applicant submitted with his application a document we have labeled and attached with this report as Exhibit 2. This document lists different locations for existing Liquor Stores, Restaurants, Grocery Stores which sell alcoholic beverages and other locations which have propane gas tanks in close proximity to homes and schools. He concludes in his document that Sumter City & County over restricts the uses of night clubs when there are other uses in close proximity to schools, residences, etc which he considers more detrimental than night clubs.

HISTORY

BOA-06-29 / September 13, 2006

Applicant requested a Special Exception for a Drinking place. This Board denied the approval based on not meeting the conditions outlined in the County Zoning Ordinance. The proposed use did not meet the separation requirement of 300 feet from residences. The property abuts predominantly residential areas to the rear, side and across the street.

Pictures below of residential properties in the immediate area of this property.



Left: Across E. Newberry
Avenue



Above: Across the street.



Above: Rear of building.



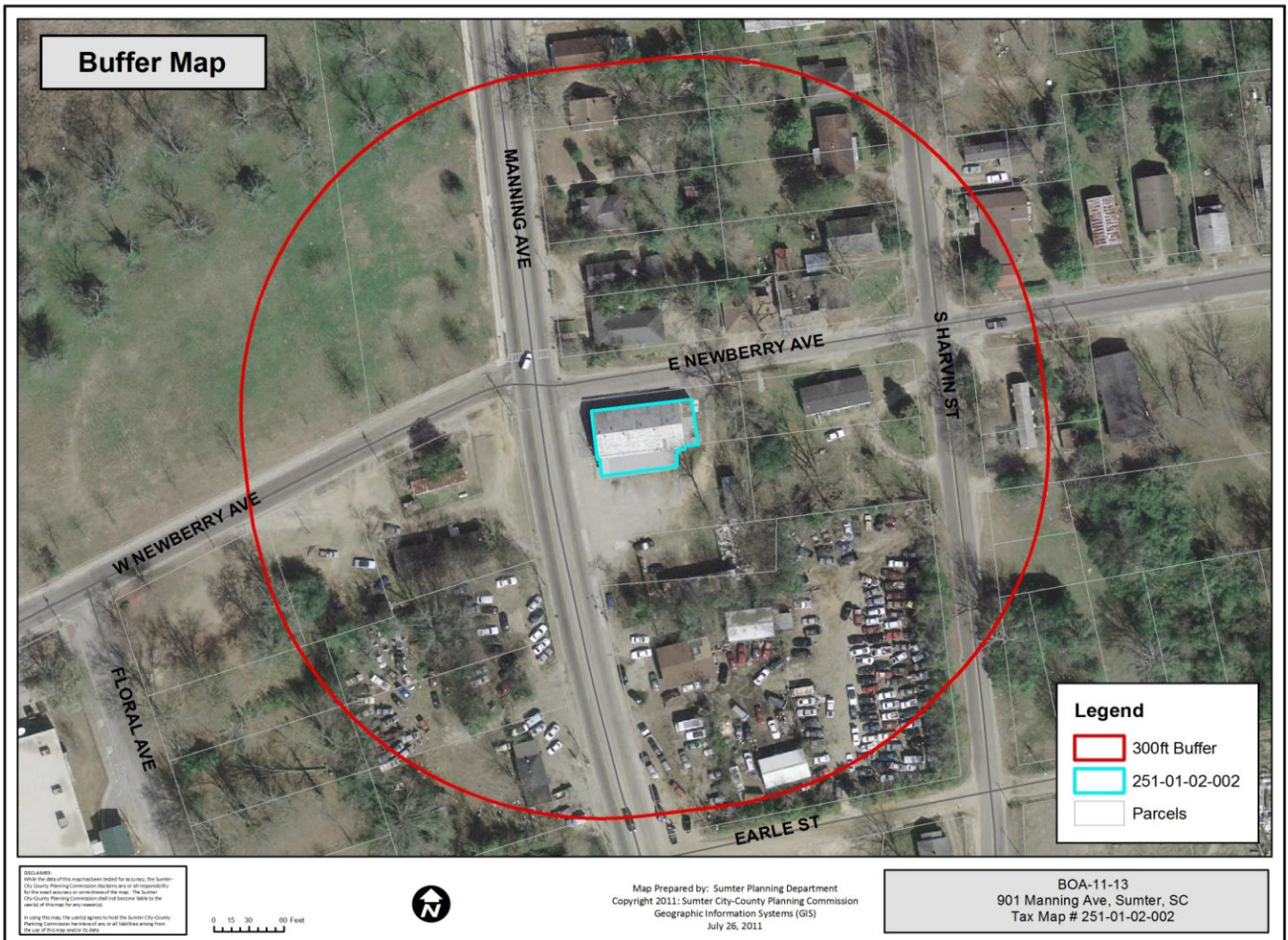
Current View of Property

Drinking Places with SIC Code 5813 are required to be reviewed and approved as Special Exceptions by this Board in accordance with **Article 3, Section 3.i.4.d in accordance with Article 5, Section B** in the County Zoning Ordinance. This use shall be in accordance with regulations set forth in:

Article 5 Section 5.b.3.e Drinking Places (SIC 5813):

1. This use shall not be within 300 feet (measured in a straight line from structure to structure) of a residential use, church, school, or public playground on a separately platted parcel.

2. A six-foot fence that is a visual screen will be installed to separate this use from residential uses.



Above picture shows residences within the 300 foot buffer radius of the structure.

Special Exceptions are also subject to **Article 1 Section H: Board of Zoning Appeals: Establishment-Purpose** as follows:

c. Special Exception:

- a. That the Special Exception complies with all applicable development standards contained elsewhere in this Ordinance, including landscaping and bufferyards, off-street parking, and dimensional requirements.

This is considered a nonconforming site due to not meeting all development standards. The grandfathering of the nonconformity has expired due to no business activity onsite for more than 36 months. This site does not meet the required on site paved parking number or the landscaping and buffering requirements.

b. That the special exception will be in substantial harmony with the area in which it is located.

Staff feels this is not a compatible location for a drinking place. This is predominantly a residential neighborhood.

c. That the special exception will not discourage or negate the use of surrounding property for use(s) permitted by right.

Staff feels this use could be detrimental to surrounding property owners because of close proximity to this use.

III. STAFF RECOMMENDATION

The staff has visited the site, reviewed the request and recommends denial of this special exception based on not meeting the above conditions as outlined in the Zoning Ordinance. This property is abutting a predominantly residential area and has occupied residential structures on property abutting to the east of this parcel and across the street along East Newberry Avenue with less than 300 feet between the proposed business structure and the residential structures.

IV. DRAFT MOTIONS for BOA-11-13

- A. I move that the Zoning Board of Appeals approve BOA-11-13, subject to the findings of fact and conclusions.
- B. I move that the Zoning Board of Appeals deny BOA-11-13 subject to the following findings of fact and conclusions attached as Exhibit 1.
- C. I move that the Zoning Board of Appeals enter an alternative motion for BOA-11-13.

V. ZONING BOARD OF APPEALS – AUGUST 10, 2011

The Sumter City-County Board of Appeals at its meeting on Wednesday, August 10, 2011, voted to accept staff recommendation and deny this request subject to the findings of facts and conclusions listed on exhibit 1.

ATTACHMENTS

Exhibit 2 – Document submitted by applicant with application.

Exhibit 1

Order on Special Exception Application

Sumter Board of Appeals

BOA-11-13, 901 Manning Avenue, Sumter, SC.
August 10, 2011

Date Filed: August 10, 2011

Permit Case No. BOA-11-13

The Board of Zoning Appeals held a public hearing on Wednesday, August 10, 2011 to consider the request of Charlie Jones, 901 Manning Avenue, Sumter, SC for a special exception which may be permitted by the Board pursuant to Sections 1.h.4.c, 3.i.4.d, and 5.b.3.e of the Sumter County Zoning & Development Standards Ordinance as set forth on Form 4 for the property described on Form 1 to be used for: a Drinking Place (SIC Code 5813).

After the consideration of the evidence and arguments presented, the Board makes the following findings of fact and conclusions.

1. The Board concludes that the standards in Sections 5.b.3.e of the Sumter County Zoning & Development Standards Ordinance which are applicable to the proposed special exception of the Zoning Ordinance ☐ **have** - ☒ **have not** been met based on the following findings of fact:
 - a. The Board finds the location of the proposed Drinking Place does not meet the Ordinance separation requirement of 300 ft. from parcel to parcel of a residential use.
2. The Board concludes that the special exception ☐ **does** - ☒ **does not** comply with all other applicable development standards contained elsewhere in the Sumter County Zoning Ordinance, including landscaping and bufferyards, off-street parking, and dimensional requirements based on the following findings of fact:
 - a. Last Business License on record for this property was back in February 2004 for a used furniture store. This is considered a nonconforming site due to not meeting all development standards. The grandfathering of the nonconformity has expired due to no business activity onsite for more than 36 months. Reference Section 6.a.2.b of the Sumter County Zoning Ordinance Nonconforming Uses & Sites.
 - b. The property owner is required to upgrade the site and submit a site plan to meet all parking, buffering, landscaping, etc. development regulations.

3. The Board concludes that the proposed special exception ☐ **will** - ☒ **will not** be in substantial harmony with the area in which it is located based on the following findings of fact:

a. The request does not meet the minimum 300 ft. separation requirement from residential uses

4. The Board concludes the special exception ☒ **will** - ☐ **will not** discourage or negate the use of surrounding property for uses(s) permitted by right based on the following findings of fact:

a. The property is adjacent to a predominantly residential area.

THE BOARD, THEREFORE, ORDERS that the special exception is ☒ **DENIED** –
☐ **GRANTED with the following conditions:**

Date issued: _____

Chairman

Date mailed to parties in interest: _____

Secretary

Notice of appeal to Circuit Court must be filed within 30 days after date this Order was mailed.
